

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Case No. 20-cr-81 (SRN/TNL)

Plaintiff,

v.

ORDER

Antonio Eric Torres Maldonado,

Defendant.

This matter comes before the Court on Defendant Antonio Eric Torres Maldonado's Second Motion for Continuance of Motion Hearing, ECF No. 29, and Second Motion to Exclude Time Under the Speedy Trial Act, ECF No. 30. Defendant has also filed a Second Statement of Facts in Support of Exclusion of Time Under the Speedy Trial Act. ECF No. 31. Defendant requests that the criminal motions hearing scheduled for August 7, 2020, be continued as he and his counsel need additional time to review discovery and discuss this case. Defendant is in custody and, for reasons related to the ongoing COVID-19 pandemic, must meet with counsel "via Zoom." ECF No. 29 at 1; *see generally In re: Updated Guidance to Court Operations Under the Exigent Circumstances Created by COVID-19*, Gen. Order No. 17 (D. Minn. June 26, 2020) (noting local detention facilities have implemented COVID-10 restrictions that impact the ability of pretrial detainees to consult with legal counsel).¹ Because of the challenges posed by COVID-19, the process

¹ All General Orders related to the COVID-19 pandemic may be found on the Court's website at <https://www.mnd.uscourts.gov/coronavirus-covid-19-guidance>.

of reviewing discovery has been difficult and time consuming and Defendant and his counsel have not been able “to conduct a full investigation such that [Defendant] can make an informed decision about his case.” ECF No. 29 at 1. Defendant requests that the criminal motions hearing be set after September 28, 2020. The Government has no objection to the requested continuance.

As stated in the Court’s July 24, 2020 Order, ECF No. 26, beginning on March 13, 2020, and continuing thereafter, the Honorable John R. Tunheim, Chief District Judge for the United States District Court for the District of Minnesota, has issued a series of General Orders in connection with the COVID-19 pandemic. General Order No. 17, entered on June 26, 2020, vacates General Order No. 14, entered on May 15, 2020, which addressed criminal proceedings and trials. General Order No. 17 continues to encourage the use of videoconferencing in criminal proceedings and states that, with the defendant’s consent, criminal proceedings will be conducted by videoconferencing, or telephone conferencing if videoconferencing is not reasonably available. Defendant has indicated through counsel that he consents to videoconferencing for the criminal motions hearing. ECF No. 28.

For the reasons addressed in these General Orders and the well-documented concerns regarding COVID-19, the Court finds that, pursuant to 18 U.S.C. § 3161(h)(7)(A), the ends of justice served by granting the continuance outweigh the best interests of the public and Defendant in a speedy trial and such continuance is necessary to provide Defendant and his attorney reasonable time necessary for effective preparation and to make efficient use of the parties’ resources. The Court further finds that, pursuant to 18 U.S.C. § 3161(h)(7)(B)(i), a miscarriage of justice would result if time were not excluded

under these unique circumstances.

Based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Defendant's Second Motion for Continuance of Motion Hearing, ECF No. 29, is **GRANTED**.
2. Defendant's Second Motion to Exclude Time Under the Speedy Trial Act, ECF No. 30, is **GRANTED**.
3. The period of time from **August 4² through October 2, 2020**, shall be excluded from Speedy Trial Act computations in this case.
4. The criminal motions hearing is continued to **October 2, 2020, at 1:00 p.m., and will occur by ZOOMGOV videoconferencing technology**.
5. The Court understands that no witnesses will be called. **If this is incorrect, counsel shall inform the Court no later than 5:00 p.m. on September 29, 2020.**
6. **Counsel shall pre-mark and make .pdf copies of all possible exhibits that they may seek to introduce at the hearing, and e-mail one complete set thereof to leung_chambers@mnd.uscourts.gov no later than 5:00 p.m. on October 1, 2020. Counsel shall also e-mail one complete set of .pdf copies of all such potential pre-marked exhibits to opposing counsel no later than 4:00 p.m. on October 1, 2020.**

[Continued on next page.]

² The indictment in this case was filed after March 17, 2020. Therefore, the Court excludes time from the date the instant motions were filed. The Court notes that the July 24 Order previously excluded time from July 1 through August 7, 2020. ECF No. 26 at 3.

7. **The trial date and other related dates will be at a date and time to be determined. Counsel must contact the Courtroom Deputy for District Judge Susan Richard Nelson to confirm the new trial date.**

Dated: August 5, 2020

s/ Tony N. Leung
Tony N. Leung
United States Magistrate Judge
District of Minnesota

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